

REMARKS

Claims 1, 5-11 and 13-20 are under examination in the case. Applicants respectfully request reconsideration of the outstanding rejection for the reasons that follow.

Rejection Under 35 U.S.C. §103(a) Addressed

Claims 1, 6, 8, 10, 11, 13 and 14 are rejected under 35 U.S.C. §103 as being unpatentable over Curley et al in view of Strawcutter et al and Warner et al. Applicants respectfully traverse.

A *prima facie* case of obviousness requires that a proposed modification not “render the prior art invention being modified unsatisfactory for its intended purpose.” MPEP §2143. Applicant contends that a combination of Warner or Strawcutter with Curley would render Curley unsatisfactory for its intended purpose. Curley teaches a collapsible structure useful as both a child toy and a pet environment that after collapse “occupies its smallest possible volume and has no overlapping support members.” Abstract. Curley’s single central support member is designed to collapse along its central axis. Curley is specific as to the manufacture and positioning of the central support member which runs from one corner of the front end member to the other corner of the back end member (see Figure 6 and columns 3 and 4). In order to collapse properly along its central axis (and occupy its minimal volume), Curley teaches that central support member form a spiral path, not loops, that traverses the entire tube once (see Figure 1). Warner on the other hand teaches a collapsible and foldable shelter or container useful as a granary, for example. Warner’s container is formed from a plurality of individual coils. Modification of Curley’s collapsible structure with Warner’s plurality of loops would render Curley unfit to collapse in its designed manner along its central axis and occupy the same minimal volume. As such, Curley as modified by Warner would be inoperable for its intended purpose. The same argument is made with reference to Curley in combination with Strawcutter, where employment of a multitude of S-shaped curves in Curley again would render the collapsible child toy inoperable for its intended purpose. As such, claims 1, 6, 8, 10, 11, 13 and 14 and 8 are believed patentable over the combination of Curley, Warner and Strawcutter. Additionally, Applicant respectfully traverses the additional rejections to claims 6, 8, 10, and 11 under 35 U.S.C. §103 as being unpatentable over Curley et al in view of Strawcutter et al and

Warner et al and in view of ordinary skill within the art. For the same reasons above, Applicant contents that the combination of Curley with Warner and Strawcutter cannot be maintained and allow Curley's collapsible child toy to be used for its intended purpose.

Claim 13 is rejected under 35 U.S.C. §103 as being unpatentable over Curley et al in view of Warner. Using the same argument as above, Applicant argues that modification of Curley's collapsible structure with Warner's plurality of loops made from spring coiled wire would render Curley unfit to collapse in its designed manner (occupy its smallest volume possible) along its central axis. As such, Curley as modified by Warner would be inoperable for its intended purpose. This rationale is maintained for the combination of Curley with Warner and Strawcutter, and as such, claim 13 is believed patentable over the combination of Curley, Warner and Strawcutter. Claim 14 was also rejected under this combination (Curley modified by Warner and Strawcutter) in that Strawcutter further discloses the step of attaching a second cloth layer to an exterior surface of the tube. However, as noted above, Applicant respectfully contents that modification of Curley with Warner and Strawcutter would render Curley unfit for its intended purpose. As such, claim 14 is believed patentable over the combination of Curley, Warner and Strawcutter.

Claims 5 and 15 are rejected under 35 U.S.C. §103 as being unpatentable over Curley as modified by Warner and Strawcutter and further in view of Johnson. Claims 7 and 17 are rejected under 35 U.S.C. §103 as being unpatentable over Curley as modified by Warner and Strawcutter and further in view of Westphal. Claims 7, 18 and 19 are rejected under 35 U.S.C. §103 as being unpatentable over Curley as modified by Warner and Strawcutter and further in view of Maggio. Claims 9 and 16 rejected under 35 U.S.C. §103 as being unpatentable over Curley as modified by Warner and Strawcutter and further in view of Zoroufy. Finally, claim 20 was rejected under 35 U.S.C. §103 as being unpatentable over Curley as modified by Warner and Strawcutter and further in view of Zheng. In each of these rejections, the base combination of Curley, Warner and Strawcutter have been combined. As stated above, Applicant does not believe that this combination of references is permissible as the child toy of Curley would no longer be fit for collapse along its central axis into a minimal volume. As such, Applicant

contends that claims 5, 7, 9, 15, 16, 17, 18, and 19 are patentable over Curley as modified by Warner, Strawcutter and either Johnson, Westphal, Maggio, Zoroufy or Zheng.


SUMMARY

This amendment is believed responsive to all points in the outstanding Office Action and is believed to put the case in condition for allowance. Should the Examiner have any remaining questions, she is encouraged to contact the undersigned attorney at the telephone number below to expeditiously resolve such concerns.

Please charge any additional fees or credit any overpayment to Deposit Account No. 04-1415.

Respectfully submitted,
DORSEY & WHITNEY LLP

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BY: 
Paul J. Prendergast
Reg. No. 46,068
DORSEY & WHITNEY LLP
Customer No. 20686